

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ROCK HILL DIVISION

Kenneth M. Lewis, #103359;	)	C.A. No. 0:07-458-TLW-GCK
	)	
Petitioner;	)	
	)	
vs.	)	ORDER
	)	
Warden Stan Burt,	)	
	)	
Respondent.	)	
_____	)	

The Petitioner, proceeding *pro se*, brings this action seeking habeas relief pursuant to 28 U.S.C. § 2254. Petitioner is incarcerated at Lieber Correctional Institution and challenges his conviction in New Jersey state court.

On March 28, 2007, United States Magistrate Judge George Kosko, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.), filed a Report and Recommendation (“the Report”). In his Report, Magistrate Judge Kosko recommends that the Petitioner’s complaint be dismissed without prejudice and without issuance and service of process. Petitioner filed objections to the Magistrate’s report on May 14, 2007.

This Court is charged with reviewing the Magistrate’s report and the Petitioner’s objections thereto. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and

Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of this standard, the Court has carefully reviewed, de novo, the Report and the objections thereto and has concluded that the Report accurately summarizes this case and the applicable law. For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 10); Petitioner's objections are **OVERRULED** (Doc. # 14); and Plaintiff's complaint is dismissed without prejudice .

**IT IS SO ORDERED.**

S/ Terry L. Wooten  
**TERRY L. WOOTEN**  
**UNITED STATES DISTRICT JUDGE**

September 25, 2008  
Florence, South Carolina